IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

R. WAYNE JOHNSON   §

VS.   §   CIVIL ACTION NO. 1:06cv516

LOLITTA RAMOS, ET AL   §

<u>MEMORANDUM OPINION</u>

Plaintiff R. Wayne Johnson, an inmate at the Clements Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has filed a motion seeking leave to proceed with this lawsuit on an *in forma pauperis* basis.

<u>Discussion</u>

Title 28 U.S.C. § 1915(g) prohibits prisoners from repeatedly filing frivolous or malicious complaints on an *in forma pauperis* basis. Section 1915(g) provides as follows:

> In no event shall a prisoner bring a civil action or appeal a judgment in a civil action [*in forma pauperis*] ... if the prisoner has, on three or more occasions ... brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

Prior to the date on which he filed this lawsuit, at least two lawsuits and two appeals filed by plaintiff were dismissed as

frivolous.[1] The allegations set forth in plaintiff's complaint do not demonstrate that he is in "imminent danger of serious physical injury." Section 1915(g) therefore bars plaintiff from proceeding further with this lawsuit on an *in forma pauperis* basis.

<div align="center">Conclusion</div>

For the reasons set forth above, this lawsuit will be dismissed without prejudice pursuant to 28 U.S.C. § 1915(g). A final judgment shall be entered in accordance with this memorandum opinion.

SIGNED this the **13** day of **September, 2006.**

_____
Thad Heartfield
United States District Judge

---

[1]   *Johnson v. Tepper*, No. 1:02cv656 (W.D. Tex) (dismissed as frivolous), *aff'd*, No. 02-51232 (dismissed as frivolous); *Johnson v. Whatley*, No. C:02cv107 (S.D. Tex.) (dismissed as frivolous); *aff'd*, No. 02-40760 (dismissed as frivolous).